IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

TUESDAY, THE 13TH NOVEMBER 2007 / 22ND KARTHIKA 1929

OP.No. 242 of 2000(D)

PETITIONER:

P. CHANDRAMOHAN, THOPPUVELIYIL HOUSE, AROOR P.O., ALAPPUZHA DIST. PIN 688 534

BY ADV. SRI.M.P.ASHOK KUMAR

RESPONDENTS:
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1. DEPUTY TAHSILDAR, REVENUE RECOVERY, CHERTHALA, ALAPPUZHA DIST.

2. DISTRICT COLLECTOR, ALAPPUZHA.

3. STATE BANK OF INDIA, REP. BY ITS MANAGER, AROOR BRANCH, ALAPPUZHA DIST.

4. VILLAGE OFFICER, AROOR, ALAPPUZHA DIST.

R3 BY ADV. SRI.GEORGE THOMAS (MEVADA)
R1,R2 & R4 BY GOVERNMENT PLEADER SRI. V. TEKCHAND

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 13/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON CMP 306 OF 2000 IN OP 242 OF 2000

DISMISSED

13.11.2007 SD/-C.N.RAMACHANDRAN NAIR, JUDGE.

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 PHOTOCOPY OF THE REVENUE RECOVERY NOTICE DATED 30.10.99

RESPONDENTS' EXHIBITS: NIL.

TRUE COPY

P.S. TO JUDGE.

C.N. RAMACHANDRAN NAIR, J.

O.P. NO. 242 OF 2000

Dated this the 13th day of November, 2007

JUDGMENT

Petitioner is challenging revenue recovery proceedings for recovery of arrears of loan availed from the third respondent. I heard counsel for the petitioner and counsel appearing for the third respondent. Even though copy of counter affidavit is not available in the file, I have taken a copy from counsel and read the same. There is substantial controversy on facts particularly with regard to the amount recovered through attachment and sale of petitioner's property. However, it is conceded by the Bank that petitioner has remitted Rs. 3,000/- and a sum of Rs. 3,750/- was remitted by the Government towards subsidy. As against Rs. 14,000/- claimed by the petitioner, the Bank has conceded that Rs. 2450/- was recovered by attachment and sale of movables of the petitioner, which happened on 5.11.1990, loan having been availed in 1985. As against total loan amount of Rs. 15,000/- and interest payable thereon, total credit that has gone to the loan account is Rs. 9200/-. Petitioner's case is that Ext.P1 revenue recovery proceedings initiated on 3.11.1990 is time barred. Counsel for the petitioner relied on the decision of the Supreme Court in

STATE OF KERALA V. V.R. KALLIYANIKUTTY, (1999) 2 K.L.T. 146 (SC). However, the case of the third respondent is that revenue recovery proceedings were initiated in the year 1989 and Ext.P1 is a continuation of that proceedings. On the face of it, I am unable to accept the contention of the Bank. Ext.P1 appears to be a fresh proceedings initiated on 30.10.1999. The earlier revenue recovery proceedings probably would have been closed in 1990 itself when the movables attached from the petitioner were sold and amount paid to the Bank. The documents produced by the Bank are of 1988 and 1989 and these documents obviously cannot save limitation, because recovery is again initiated only on 30.10.1999. Since loan is 23 years old, and petitioner's movables were attached and sold 10 years back, I do not think fresh recovery proceedings initiated vide Ext.P1 is tenable because of limitation. In the circumstances, O.P. is allowed quashing recovery proceedings, Ext.P1, on the ground of limitation.

(C.N. RAMACHANDRAN NAIR)
Judge